



Attorneys at Law

45 BROADWAY, SUITE 430, NEW YORK, NEW YORK 10006

TEL: (212) 248-7431 FAX: (212) 901-2107

WWW.NYCEMPLOYMENTATTORNEY.COM

A PROFESSIONAL LIMITED LIABILITY COMPANY

January 5, 2024

Via ECF

Magistrate Judge Taryn A. Merkl
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

RE: KATHYANN SMART v. USA LABOR FOR HIRE, et. al.
Docket No. 20-CV-5594 ((TAM))
Joint Letter

Dear Judge Merkl:

This office represents Plaintiff, Ms. Smart, in this matter. As per the Court's directive, issued on July 27, 2023, the parties submit this joint letter with the information requested by the Court.

Short Description of the Case

Plaintiff brings this action against Defendants, USA Labor for Hire, Inc., RC Global Energy Group, Inc. and Oleg Tsimbler, for, *inter alia*, discrimination retaliation on the basis of sex/gender, race/color and national origin, in violation of Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978, and by the Civil Rights Act of 1991, Pub. L. No. 102-166) ("Title VII"), the New York State Human Rights Law, New York State Executive Law §§ 296, *et seq.* ("NYSHRL") and the New York City Human Rights Law, New York City Administrative Code § 8-502(a) *et seq.* ("NYCHRL"). Plaintiff also makes claims herein for misclassification leading to illegal wage violations under the Fair Labor Standards Act ("FLSA") and the New York Labor Law (violations of the New York State Labor Law ("NYLL") and breach of contract as Plaintiff was not paid, not paid timely, not reimbursed for employment-related expenses, not given the benefits of an employment agreement made between the Parties and was not paid a fair minimum wage in accordance with the law. Also, Plaintiff asserts a claim for defamation *per se* against Defendant Oleg Tsimbler for disparaging Plaintiff's chastity and professional reputation. Accordingly, Plaintiff seeks damages to redress the injuries suffered as a result of being discriminated by her employer due to her sex/gender, race/color and national origin; for retaliation for engaging in protected activity; for violation of the FLSA and NYLL and for defamation by Defendant Oleg Tsimbler.

Proposed Voir Dire Questions

Plaintiff

Where do you currently reside?

Are you employed? What is your occupation?

Are you married? If yes, what is your spouse's occupation?

Have you or your spouse, ever worked in any human resources or employee relations capacity? If so, please describe.

Have you previously served on a jury? Where? What type of case?

Have you ever been a litigant in a lawsuit? What type of lawsuit?

Have you ever owned a business or had employees?

If yes, have you ever been sued in the capacity of a business owner?

Are you or have you recently been in a position where you supervise people? Have you ever had a complaint filed against you in that capacity?

Does anyone here, because of the nature of your employment, feel that you may not be able to judge this case impartially?

You may be called upon in this case to decide liability and/or award money damages. Do any of you have any religious, philosophical, or other belief that prevents you from awarding money damages in this case?

Does anyone feel that they cannot award monetary damages for emotional distress?

From what sources do you get your news? Please be specific. If the answer is television, which networks? If the answer is internet, which websites? If the answer is social media, what types of accounts, specifically?

Defendant

Have you or someone close to you ever made a formal or informal complaint at work? If yes, what was the nature of the complaint(s)?

Have you or someone close to you ever been treated unfairly at work? If yes, describe the circumstances of such.

Have you or someone close to you ever complained to your employer about the working conditions?

Have you ever received a formal or informal performance review or evaluation from any employer that you felt was not deserved?

Do you believe that a company that is sued should have to prove that it has done nothing wrong?

List of all names, entities, and locations that parties expect to be mentioned during the trial

People/Entities

Kathyann Smart
USA Labor for Hire, Inc.
RC Global Energy Group, Inc.
Oleg Tsimbler/George Twin
Natalya Gritsayuk
Svitlana Krushelnytska
Rachel Telesford
Terri Street
Cathy Ann Alexander
Clifford Brown
Alisha Peters
Christopher Wint
Dora (last name unknown) – Travel Agent
Peter Ashton
Andrew Krushelnytskyi
Jerome Felberg
Nimrod
Garry Pogil

Places

Brooklyn, NY (and various neighborhoods within Brooklyn, NY)
Grenada, West Indies
Greens Café, Grenada, West Indies
Papi Callaloo Bar, Grenada, West Indies
New York Life
Binghamton University
Metropolitan College of New York
Duplicating USA

We thank the Court for its time and attention to this matter.

Respectfully Submitted,

/S/

Alexandria Jean-Pierre, Esq.
Steven Fingerhut, Esq.

CC: Garry Pogil, Esq. (*via ECF*)